

Entered 04-17-00 - sb  
CL 00L0225 - ALEXIS HOLMES

00-R-1751

CLAIM OF:

The Estate and Minor Child of  
**RICHARD BRANNON**  
through the attorney,  
**Jonathan J. Wade, Esq.**  
**Webb, Stuckey & Lindsey, LLC.**  
**400 Westpark Court**  
**Suite 220**  
**Peachtree City, Georgia 30269**

For damages alleged to have been sustained from a wrongful death  
due to injuries received in a vehicular accident on September 27,  
1999 in Clayton County.

**THIS ADVERSED REPORT IS  
APPROVED:**

BY: *Rosalind Rubens Newell*  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

CONSENT AGENDA

ADVERSE REPORT

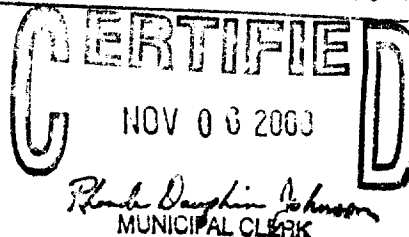
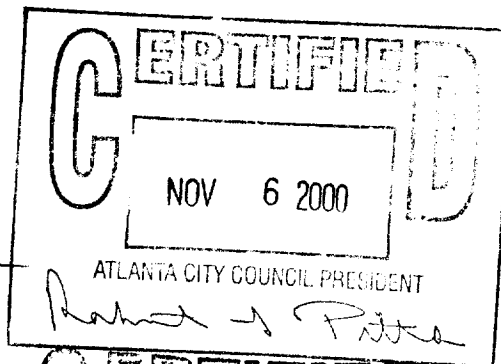
ADVERSED BY  
CITY COUNCIL NOV 06 2000

*Public Safety*

*10/31/00*  
*Clara Anderson*

*Dan Smith*  
*Markus & Paul*

*James*  
*Henry*





## OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103

November 16, 2000

Jonathan J. Wade  
Attorney at Law  
400 Westpark Court  
Suite 220  
Peachtree City, GA 30269

00-R-1751

RE: The Estate and minor child of Richard Brannon

Dear Attorney Wade:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on January 03, 2000. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400**.

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

cc: Claims Division/Law Department

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0225

Date: October 19, 2000

Claimant /Victim THE ESTATE AND MINOR CHILD OF RICHARD BRANNON  
BY: (Atty) Jonathan J. Wade  
Address: 400 Westpark Court, Suite 220, Peachtree City, Georgia 30269  
Subrogation: Claim for Property damage \$ Bodily Injury \$ 1,000,000.00  
Date of Notice: 03/24/00 Method: Written, proper X Improper         
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 09/27/99 Place: 95 Ardmore Place  
Department Police Division:         
Employee involved Officer M. Gardner Disciplinary Action:       

NATURE OF CLAIM: The claimants allege damages due to the wrongful death of Richard Brannon from injuries received when the vehicle in which he was riding crashed during a police chase. However, a municipal corporation shall not be liable for the torts of policemen or other officers engaged in the discharge of the duties imposed on them by law as set forth in O.C.G.A. §36-33-3.

### INVESTIGATION:

Statements: City employee        Claimant        Others        Written        Oral         
Pictures        Diagrams        Reports: Police        Dept Report        Other         
Traffic citations issued: City Driver        Claimant Driver         
Citation disposition: City Driver        Claimant Driver       

### BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial         
Improper Notice        More than Six Months        Other X Damages reasonable         
City not involved        Offer rejected        Compromise settlement         
Repair/replacement by Ins. Co.        Repair/replacement by City Forces         
Claimant Negligent        City Negligent        Joint        Claim Abandoned       

Respectfully submitted,

  
INVESTIGATOR - ALEXIS HOLMES

### RECOMMENDATION:

Pay \$        Adverse X Account charged: 1A01        2J01        2H01         
Claims Manager:  Concur/date 10-19-00  
Committee Action:        Council Action

# WEBB, STUCKEY & LINDSEY, LLC

Attorneys-At-Law

James H. Webb Jr. ^  
John M. Stuckey Jr. \*\*  
Richard P. Lindsey

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Other Offices  
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Richard M. Golick  
Susan M. Brown  
William M. McHugh  
Stefanie T. McHugh  
Stacey M. Robertson ††

Other licenses:  
\* Florida

\*\*Tennessee & District of Columbia

†Illinois

††Only in Texas

ENTERED - 4-17-00 - SB  
00L0225 - MIKE REEVES

March 23, 2000

VIA HAND DELIVERY AND BY

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

City of Atlanta  
c/o City of Atlanta Council  
President Robb Pitts  
55 Trinity Avenue S.W.  
Suite 2900  
Atlanta, GA 30335

Department of Police Services  
City of Atlanta Police Department  
c/o Chief, Beverly Harvard  
675 Ponce de Leon Ave., N.E.  
Atlanta, GA 30308

RECEIVED

MAR 24 2000

PRESIDENT'S OFFICE

**NOTICE OF TORT CLAIM AGAINST CITY OF ATLANTA.**  
**ITS POLICE DEPARTMENT AND OFFICER M. GARDNER**

Ladies and Gentlemen:

This law firm is privileged to represent the estate and surviving minor child of Richard Brannon. This letter is sent pursuant to the ante litem requirements of O.C.G.A. § 36-33-5 within six months of September 27, 1999. We look forward to your timely response within thirty days.

Notice is hereby given that a legal tort claim for damages is asserted against the City, its police department, and the involved officer(s) individually and in their official capacities for their actions on September 27, 1999.

The case may be summarized as follows:

- a. On September 27, 1999 at about 1855 Atlanta Police (Officer M. Gardner) began pursuing a Chevy Blazer or GMC Jimmy, VIN 1G5EK18H2CF503408. The chase entered Clayton County, where the Blazer crashed, ejecting the three occupants. One occupant was our client Richard Brannon. According to the Pursuit Report, the high speed chase over apparent traffic charges lasted about 30 minutes and covered 10 miles. While the Atlanta officer claimed he terminated pursuit at the Clayton County line, other jurisdictions and witnesses maintain otherwise. Despite the fact that upon Officer Gardner's arrival at the scene, one of the occupants had fled, and the others ejected, Officer Gardner decided Mr. Brannon had been the driver and charged him with fleeing, auto theft, abandonment of controlled substance, no proof of insurance, DUI, and reckless driving. Mr. Brannon was in fact a passenger and not the driver.
- b. Mr. Brannon was admitted to Southern Regional Medical Center after a collision on September 27, 1999 with diagnoses of bilateral pulmonary contusions, facial lacerations, concussion, and hypokalemia.
- c. A CT scan of his head done on September 28, 1999 showed pneumocephalus and a frontal sinus fracture.
- d. Mr. Brannon had an episode of oxygen desaturation late on September 29, 1999 and had tests on September 30, 1999 to rule out pulmonary emboli.
- e. Mr. Brannon was placed on a two week course of antibiotics on October 1, 1999 due to the frontal sinus fracture.
- f. An infectious disease consult was obtained on October 2, 1999. He had a fever which was thought to be due to sepsis arising from his sinuses.
- g. Blood cultures grew gram positive bacteria and he was started on IV Vancomycin and Fortaz on October 3 for better central nervous system penetration.
- h. Mr. Brannon was febrile on October 4, 1999 and continued to have a cerebrospinal leak due to the right front sinus fracture.
- i. The reading of the first blood culture was available on October 5, 1999 as gram positive cocci in pairs and chains Streptococcus pneumoniae, which was sensitive to Vancomycin only. It was resistant to Cefotaxime, Ceftriaxone, and Penicillin-G.
- j. The cerebrospinal leak was noted as resolved on October 6, 1999. IV Vancomycin was ordered for an additional ten days.
- k. Mr. Brannon had complaints of neck pain and headache on October 7, 1999. He would be observed for 24 hours and then discharged. The complaints were resolved the next day.

**OCTOBER 8, 1999**

- l. Mr. Brannon was discharged from SRMC into the custody of the Clayton County Police (Officer Duffey) on October 8, 1999 at 1800. Officer Duffey's report indicates that he was "informed by SRMC medical staff that two IV catheters were left in the arms of offender Brannon in order to facilitate further IV antibiotic treatment which he will need to receive at the Grady Detention Center." Mr. Brannon had two central catheter and midline catheter (PICC's) in place for administration of these doses.
- m. The discharge information sheet clearly stated that 1) the PICC line was to be continued, 2) Mr. Brannon's vitals were to be checked every four (4) hours, and 3) the Vancomycin was to be continued every 12 hours for 9 days until 10/16/1999. Mr. Brannon's primary physician's telephone number was also provided.
- n. The Clayton police transferred Mr. Brannon to the custody of the City of Hapeville Police Department upon Officer Mander's arrival at SRMC. Officer Manders advised Officer Duffey that "Offender Brannon would be taken to the Grady Hospital Detention Center by Fulton County officials."
- o. Officer Manders' report states that upon his arrival at SRMC, he was told of the IV lines still in Mr. Brannon's arm by the Clayton Officer. He further states that he "asked about the paperwork on Mr. Brannon. The paperwork stated he was to get IV antibiotics every 12 hours for 9 days", and that he was told by the nurse that was why the PICC lines could not be taken out.
- p. Officer Manders' supervisor's report further indicates that he was likewise told that "Mr. Brannon would require antibiotics every twelve hours and be checked by a doctor every four hours." He further indicates that after Mr. Brannon was booked and bound over to Fulton by City of Hapeville, Mr. Brannon was transported to Grady Hospital by Officer Lowery with his medical information.
- q. Officer Lowery's reports indicate that he was dispatched at approximately 2000 on the 8<sup>th</sup> to transport Mr. Brannon to Grady and turn him over to Fulton County there. He documented that Mr. Brannon had a visible injury to the back of his head and superficial appearing injuries about his face. He was transported in the passenger seat due to bed sores.
- r. The Hapeville dispatcher documented that she was told by Officer Manders, while the officer was still at SRMC, that Mr. Brannon was "still hooked to IV's, a catheter, and also had strict discharge orders of IV antibiotics every 12 hours for 9 days, and his vital signs must be checked every 4 hours." She further documented that Mr. Brannon was to be bound over to Fulton from Hapeville and released to "Fulton County at Grady Hospital insuring Mr. Brannon would be in a medical facility to receive treatment per Southern Regional's release instructions." She further documented that after the bind over hearing at the Hapeville Jail, Mr. Brannon's "discharge papers from Southern Regional" were given to Officer Lowery to take to Grady with Mr. Brannon. She finally documented that she was

later advised that Grady was refusing to take Mr. Brannon, and that Lowery was instructed to take Mr. Brannon to a Sergeant Griffin in the hospital and release Mr. Brannon to him.

- s. Fulton County Sheriff's Department employee Shawn Johnson at Grady documented that Mr. Brannon was brought to his custody at 9:40 pm on October 8, 1999, and that he was kept in the emergency detention area. The Grady Hospital Detention Center Sheriff's tracking sheet likewise documents that he arrived at 2140 hours.
- t. The medical record at Grady indicates that he was evaluated by an unknown physician at approximately 2220 hours on October 8, 1999, and that instructions were written to "follow up with medical at jail, continue present medication." There is no indication however that Mr. Brannon received his Vancomycin during this Grady visit during the late hours of October 8, 1999.

#### **OCTOBER 9, 1999**

- u. Fulton County records document that he was then discharged from Grady at about 0050 hours on October 9, 1999 to be transported to the Fulton County jail, and arrived at the jail at about 0305 hours.
- v. The Fulton jail record indicates that Dr. Joseph Fowlkes of Correctional Healthcare Solutions, Inc., the corporation with whom you contracted to provide medical services for your inmates, issued a telephone order to Grady for Mr. Brannon to "continue on Vancomycin IV therapy (PICC catheter)" at some time during October 9, 1999.
- w. Correctional Healthcare Solutions, Inc. (hereinafter CHS), upon good information and belief, is a Pennsylvania for profit corporation that holds or held the contract to provide medical services and personnel to the Fulton County Jail.
- x. Upon further good information and belief, Dr Fowlkes, Dr Minerve, and all other medical providers (as used hereinafter meaning "including but not limited to physicians, nurses, technicians and assistants") who provided medical care and treatment to Richard Brannon at the Fulton County Jail were actual or apparent agents or employees of CHS and/or Fulton County acting within the course and scope of said actual or apparent agency/employment for Fulton County and/or CHS at all times relevant to this case.
- y. The Fulton jail records further indicate that at 0900 on October 9, 1999, an unknown physician (# 16250) ordered that Mr. Brannon should be returned to yellow zone detention at Grady for follow up care, and to establish Mr. Brannon's history from Southern Regional Hospital.
- z. However, Mr. Brannon was not transported by the Sheriff's Department until 1645 to Grady Memorial Hospital Emergency Care Clinic on October 9 and arrived at 1710 for his antibiotic. Resident physician Dr. Shane Darrah and a Dr. Sheay (#041820) saw him and decided, with some input from a Dr. Thomas, that

Vancomycin was not necessary and ordered oral Augmentin to simply be given at the jail. There are no laboratory test results, physical examination results, or history information results from SRMC or its physicians found in the record to reflect how and why this decision was made. He was transferred back to the jail at 2130.

- aa. The jail records indicate that Dr. Minerve ordered that Mr. Brannon should be observed on October 9, 1999 at 2300 and he was apparently transferred to the Medical Observation Unit at the jail.
- bb. The jail records document that on October 9, 1999, a physician from Grady called the jail and instructed the nurse that there was no need for Vancomycin, that he was to receive Augmentin, and to schedule a PICC line removal and a referral to plastic surgery.

#### **OCTOBER 10, 1999**

- cc. The jail infirmary admission record reflects that on October 10, 1999 at 0145 am, Mr. Brannon was documented as currently taking Vancomycin, and that his last dose had been on October 8, 1999. (A note on the side indicates that on October 12, 1999, someone asked that this admission be completed.)
- dd. The jail records for October 10, 1999 document that at 1000 hours, Mr. Brannon was complaining that his head was spinning, and he was "not feeling well." He further had a bloody nose with old dry blood. He further advised that he was supposed to be on antibiotics.
- ee. The jail records further indicate that at 1230 on the 10th, Mr. Brannon had a temperature of 100.4, vomitus was noted on the floor, and he was responsive only to verbal yes/no questions.
- ff. The jail record further documents that at 1300 on the 10th, Dr. Minerve was "made aware of present symptoms and diagnosis as noted on Grady document." Dr. Minerve apparently instructed the nurse to observe Mr. Brannon and to notify him if Mr. Brannon vomited again, but neither evaluated him nor ordered that he be returned to Grady for evaluation.
- gg. The jail record's last entry for October 10, 1999, at 1400, indicates that Mr. Brannon apparently had no further vomiting, but complained that "I am still slightly weak."
- hh. No further entries are noted for the remainder of October 10, 1999.

#### **OCTOBER 11, 1999**

- ii. The jail records further indicate that on October 11, 1999 at 1200, Mr. Brannon was asking for "help". The nurse documents that he was complaining of generalized discomfort, and planned to simply continue to monitor him.
- jj. At 1250 on October 11, 1999 Dr. Fowlkes evaluated Mr. Brannon at the jail, noting the history of vomiting the previous night, and he likewise felt nauseous at



the present. He further complained of a headache. He further documented that Mr. Brannon reported to him that his antibiotics had been discontinued. The physician further documented that Grady had seen him and noted a low grade fever. Dr. Fowlkes requested that Southern Regional be contacted, and pending information, Mr. Brannon might need to return to Grady. He further documented that the IV infusion personnel was paged. He did not however order his return to Grady at that time, nor did he order that the Vancomycin be reinstituted.

- kk. At 1430 on the 11<sup>th</sup>, the jail nurse documented that Mr. Brannon was warm to the touch, and had a fever of 101.2. She further documented that Dr. Fowlkes then ordered Mr. Brannon to be returned to Grady.
- ll. The Sheriff's Grady Detention log documents that Mr. Brannon was not transported to Grady until 1735.
- mm. Mr. Brannon was evaluated at Grady at 1900 on October 11. He had not received the IV Vancomycin nor Augmentin. He was admitted to the hospital for further care.

#### **OCTOBER 12-17, 1999**

- nn. On October 12, 1999, Mr. Brannon complained of fever, shortness of breath, and chest pain. He was found unresponsive at 0115 on October 13, 1999 and CPR was started. He was placed on the ventilator and received supportive care until October 17, 1999, when he died.
- oo. An autopsy was done by the Fulton County Medical Examiner and the cause of death was determined to be meningitis secondary to cerebrospinal fluid leak from the skull fractures.

We maintain that the City and its Police Department, as well as Officer Gardner individually and officially, were negligent and are thus liable for chasing the vehicle at a high rate of speed, and thus causing the wreck, Mr. Brannon's injuries including the skull fracture, and his subsequent death due to medical negligence. Specifically, Officer Gardner's actions violated O.C.G.A. § 40-6-6(d)(2) and reflect reckless disregard for proper law enforcement procedures in his decision to initiate and continue the pursuit. Officer Gardner's actions further violated BPS.SOP.4.11, the City's standard operating procedure for pursuit driving.

As required by law, this is official notice of this claim and request for compensation. We look forward to notification.

March 23, 2000

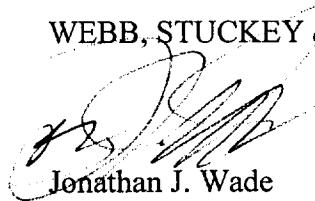
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FOR PURPOSES OF SETTLEMENT AND COMPROMISE ONLY

The remainder of this letter is sent pursuant to O.C.G.A. § 24-3-37, and as such shall not be admissible for any purpose in the event the matter must go into litigation. We are authorized to demand the amount of \$1,000,000.00 in full settlement and compromise of all claims of Mr. Brannon's surviving minor child and estate.

Sincerely,

WEBB, STUCKEY & LINDSEY, LLC

A handwritten signature in black ink, appearing to read "Jonathan J. Wade", is written over the printed name.

Jonathan J. Wade

JJW:rs

c: Holly Brannon